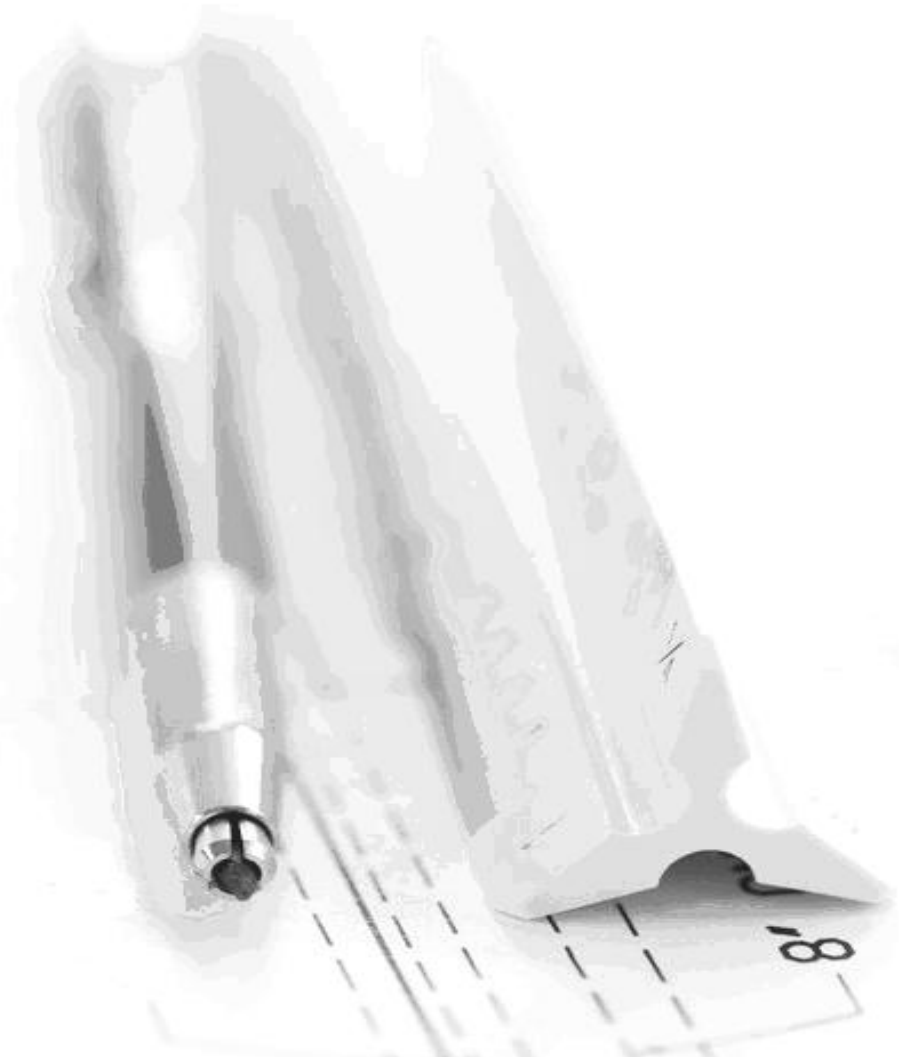
site plan review guide



CITY OF FOND DU LAC

Site Plan Submittal Requirements

Site Plan and Landscape Plan (8 sets)

Plan Review Fee: $250
$500 Commercial/Industrial > 10,000 sq.ft.
$500 Multifamily > 8 units
$50 Administrative Plan Review

Engineering Plans (4 sets)

Plan Review Fee: $700 + $40/disturbed acre
Erosion Control & Stormwater Management Permit Application

Plan Submittal: Friday 12:00 p.m.

The filing deadline for site plan review is noon Friday; the plan will be reviewed by the Site Plan Committee on the following Wednesday. Plan distribution demands do not permit the acceptance of late submittals.

Submit the complete site plan package (site plan, landscape plan, engineering plans, engineering applications, site plan review fee, engineering review fee) to the Community Development Department located on the fourth floor of the City-County Government Center, 160 South Macy Street.

Site Plan Meeting: Wednesday, 10:00 a.m.

The Site Plan Review Committee meets each Wednesday. The plan designer should attend the meeting to be available for questions and to document any changes that may be required for plan approval.

Site Plan Review Committee

Community Development/Committee Chair:	Joellyn Dahlin, Principal Planner (920) 322-3440 jdahlin@fdl.wi.gov
Engineering/Stormwater	Nick Waldschmidt, Civil Engineer I (920) 322-3482 nwaldschmidt@fdl.wi.gov
Water Utility	Kathryn Scharf, Water Operations Manager (920) 322-3682 kscharf@fdl.wi.gov
Fire Department	Troy Haase, Division Chief of Fire Protection (920) 322-3807 thaase@fdl.wi.gov
Police Department	Captain Mat Mueller (920) 322-3745
Alliant Energy	Peter M. Jones (920) 322-6689 peterjones@alliantenergy.com
AT&T	Lori Ketter 920.929.1012 Lk2989@att.com
Charter Communications	Bruce Henry bruce.henry@chartercom.com

Need Information?

- For information regarding zoning and related requirements, and for assistance regarding the general process of site plan review, City Planning staff can be contacted at (920) 322-3440.

- Fond du Lac City Engineering will provide benchmark locations and information on the locations of municipal utilities including water, sanitary sewer and storm sewer. For work in the street and terrace areas, permits are required and are issued by this office. City Engineering personnel can be contacted at (920) 322-3470.

- To locate utility lines including gas, electric, telephone and cable television, call Digger's Hotline at 1-800-242-8511 prior to site plan preparation. Three working days notice is required.

- Prior to the start of any work on a project, contact the Building Inspection Division at (920) 322-3570 for any permits that may be required.

Site Plan Review Guidelines

SITE PLAN REQUIREMENT – BUILDING PERMIT

Site Plan approval is required for the issuance of a building permit for single family condominium homes, multifamily residences, and for commercial and industrial development. Schools, churches, nursing homes and assisted living facilities, and recreational uses also require site plan approval. The site plan requirement applies to the first-time development of a property, and for addition/expansion/modification of existing buildings and uses.

THE PROCESS

Site Plan Review is an administrative process that includes the plan designer and/or representatives of the developer. Following review by the Site Plan Review Committee, the Community Development Department will approve the plan, approve the plan with conditions or return the plan to the designer for revision. Where a plan requires revision, there is no deadline for re-submittal and no additional fees are required; the revised plan is reviewed at a staff level and does not require a formal meeting of the Site Plan Review Committee.

APPROVAL

The approved site plan is forwarded to the Building Inspector, an approved copy is kept on file in the Community Development Department and an approved copy is mailed to the project designer.

IMPORTANT!
Site plan approval does not constitute approval of a permit for construction, paving, utility work, or curb/street opening.

SITE PLAN REQUIREMENTS

The purpose of a site plan is to illustrate existing property conditions and provide details of new construction. Construction drawings are not required; elevation drawings are required only in certain circumstances.

- North arrow and graphic scale.
- Seal and signature of licensed engineer, architect, land surveyor. Plan designer and property owner information.
- Dimensions of all property lines, location of existing and future public right-of-ways; location of easements (drainage/utility/access).
- Provide setback dimensions of all proposed buildings. If an existing building (or part thereof) is to be demolished, show the area of the existing construction to be removed.
- Calculate gross area (gross square feet) per building; identify occupancy/use.
- Show details of existing and proposed utility systems: sanitary sewer, storm sewer, water, gas, electric, telephone, cable television.
- Fond du Lac Department of Public Works policy requires a minimum 6" sewer lateral; this requirement applies to all installations. For fire protection purposes, the minimum water lateral is 6".
- Show Official Map features that are mapped but not constructed, i.e. future streets, changes to existing streets, and drainageways.
- Floodplain. Identify the regional flood elevation, lowest floor elevation, perimeter fill elevation (where required), and limits of the flood fringe and floodway areas. Use NAVD 88 vertical datum. If a LOMA has been approved for an existing structure, provide FEMA case number and supporting documentation.

Floodplain Regulations

GENERAL

City Code Chapter 690, Floodplain Zoning, regulates all areas that would be covered by the regional flood. Base flood elevations are derived from the flood profiles in the *City of Fond du Lac Flood Insurance Study*.

> **Chapter 690 Floodplain Zoning Code** is available online at the City of Fond du Lac website: www.fdl.wi.gov
>
> **City of Fond du Lac Flood Insurance Study** and **FEMA flood maps** are available in the Community Development Department (4th floor, City-County Government Center, 160 South Macy Street).

RESIDENTIAL AND COMMERCIAL

The elevation of the lowest floor (excluding the basement or crawlway) of any habitable structure which is to be constructed, reconstructed, altered or moved into the area of the 100-year floodplain shall be at or above the flood protection elevation (2' above the regional flood elevation), on fill. The fill elevation shall extend at least 15' beyond the limit of the structure, at a level 1' or more above the regional flood elevation. The basement or crawlway may be constructed at the regional flood elevation, provided it is flood proofed to the flood protection elevation.

MANUFACTURING AND INDUSTRIAL DEVELOPMENT

A manufacturing or industrial structure that is to be constructed, reconstructed, altered or moved into the area of the 100-year floodplain shall be protected to the flood protection elevation utilizing fill, levies, flood walls, or other flood proofing measures in compliance with the Floodplain Zoning Code. Storage yards, surface parking lots and other uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

NONCONFORMING USE/NONCONFORMING STRUCTURE

Modification or addition to a nonconforming use or structure is not permitted except in compliance with the Floodplain Zoning Ordinance. "Modification" and "addition" means any alteration, addition, modification, structural repair, rebuilding or replacement.

No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable regulations of the Floodplain Zoning Code. The costs of elevating a nonconforming structure or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provision.

A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, flood resistant materials are used, and construction practices and flood proofing methods in compliance with the Floodplain Zoning Code are used.

Residential Development Standards
R-2, R-3, R-4 Districts

Building Height

No multifamily structure closer than 200 feet from an R-1 district shall be more than two stories or 35 feet in height where the adjacent R-1 land is developed or planned for single family use. The height limitation is not applicable when the adjacent R-1 property is occupied by public, institutional or other non-residential uses.

Density

Density reductions required by zoning code regulations for multifamily dwellings closer than 200 feet from an R-1 district shall not apply when the R-1 property is occupied by public, institutional or other non-residential uses.

Building Separation

Minimum separation between exterior building walls shall be measured at the closest point between structures:

Front or rear wall facing front or rear wall: 60 feet
End wall facing end wall: 30 feet
End wall facing front or rear wall: 45 feet

Building Orientation

The front facade of a building shall be oriented to face a public street, except in the case of a through lot.

Outdoor Trash Collection/Storage Area

Outdoor trash and recycling receptacles must be confined within an enclosed area located not less than 5 feet from any lot line. Building materials of the enclosure

should match materials of the residential building; the use of chainlink fencing with privacy slats is not an acceptable option.

Fencing

Fences and walls shall compliment the style, materials and color of dwelling units. Acceptable materials include wood, wrought iron, stone or brick. The use of chainlink and similar materials is prohibited.

Accessory Buildings

In addition to garage and carport structures, clubhouse, pool house or gazebo structures are allowed for the common use of the property residents and guests. Any such building may also provide for the enclosed storage of property maintenance vehicles and equipment, provided that storage area does not exceed 25% of the building area. The design and construction materials of an accessory building shall compliment the principal residential building. Building size is not restricted; siting shall comply with setback requirements of the principal residential structures.

Landscape Buffer Strip

When a lot in a R-2, R-3 or R-4 District abuts property in a R-1 District, a landscape buffer strip at least 10 feet wide shall be provided along the length of the adjacent R-1 lot line where the adjacent R-1 land is developed or planned for single family use. A buffer strip is not required when the adjacent R-1 property is occupied by existing public, institutional or other non-residential uses.

Residential Development Standards
Single Family Condominium Residences
R-1 Zoning District

Lot Area

Minimum lot area per dwelling unit: 10,000 square feet.

Building Setbacks

Front Yard: The area between the front of a building and the public right-of-way line and also the area between the front of a building and a private roadway. Minimum 30 feet.

Interior Yard: The area extending from the front yard to the rear yard between a building and the side lot line. Minimum 18 feet.

Rear Yard: The area extending across the full width of the lot between a building and the rear lot line. Minimum 20 feet.

Building Separation

Minimum separation between exterior building walls shall be measured at the closest point between structures:

Front or rear wall facing front or rear wall: 40 feet
End wall facing end wall: 20 feet
End wall facing front or rear wall: 35 feet

On-Site Parking

Two spaces required for each dwelling unit, and at least 1 visitor/guest parking space for each unit. Parking is not permitted in any yard between a building and the street.

Site Design and Architectural Techniques

Site and building designs must consider compatibility with the surrounding area, particularly adjacent single family subdivisions. The site design layout shall utilize reverse building plans and vary building placement to add variety of building orientations and to avoid the monotony of garage door corridors. The front facade of a building shall be oriented to face a public street where practical, except in the case of a through lot. Where the front facade does not face a public street, the front yard area shall utilize landscaping materials to buffer the use from the public street.

Lighting

Freestanding ornamental lights not to exceed 12 feet in height shall be provided for illumination of on-site driveway and walkway areas. Lighting shall be confined to the property and shall not produce glare or wash onto adjacent properties or public rights-of-way.

Fencing

Fences and walls shall compliment the style, materials and color of dwelling units. Acceptable materials include wood, wrought iron, stone or brick. Chainlink and similar materials are prohibited.

Accessory Buildings

- One storage building for a condominium development is allowed, up to 400 square feet in area, for the storage of property maintenance vehicles and equipment. Building design and construction materials shall compliment the residential buildings; metal buildings are not permitted. Siting shall comply with setback requirements of the residential structures, except that a storage building may not be located within any required front yard setback or front yard area.

- Clubhouse, pool house or gazebo structures shall be permitted for the common use of residents and guests. Building design and construction materials shall compliment the residential buildings. Building size is not restricted; siting shall comply with setback requirements of the residential structures.

Landscaping

A landscape buffer strip at least 10 feet wide must be provided and maintained along all lot lines that abut areas of R-1 zoning planned or developed for traditional single family residential uses. A buffer strip is not required when the adjacent R-1 land is occupied by public, institutional or non-residential uses.

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City of Fond du Lac

Schedule III
Bulk Requirements
Residential Districts
[Amended 5-14-2014 by Ord. No. 3547]

District	Land Use or Activity	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Yards (See §§ 720-10 and 720-11) (feet)				Maximum Building Height (feet)	Maximum Lot Coverage
					Front	Side		Rear		
						One	Total			
All	Nonresidential uses	10,000	80	125	30	30	70	40	35	50%
R-1	All permitted uses	10,000	80	125	30	6	18	20	35	35%
	1-family dwelling lot of record on April 23, 2014	6,000	50	115	25	5	14	20	35	35%
R-2	1-family dwelling	6,000	50	115	25	6	18	20	35	35%
	2-family dwelling	10,000	80	125	25	6	18	20	35	35%
R-3	1- and 2-family dwelling	6,000	50	115	25	5	14	20	35	35%
	Multifamily dwelling	20,000 or 3,000 per dwelling unit, whichever is greater	25 for each dwelling unit; maximum required: 125	115	25	12	30	20	45	40%
R-4	1- and 2-family dwelling	6,000	50	115	25	5	14	20	35	35%
	Multifamily dwelling within 200 feet of R-1 District	25,000 or 4,500 per dwelling unit, whichever is greater	30 for each dwelling unit; maximum required: 150	115	35	30	70	20	35	40%

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City of Fond du Lac

Schedule V
Bulk Requirements
Business Districts
[Amended 5-14-2014 by Ord. No. 3547]

District	Land Use or Activity	Minimum Yards* (See §§ 720-10 and 720-11)			Maximum Building Height
		Front	Side	Rear	
C-1	All permitted uses except when special conditions or special permit provisions state otherwise	None required, except along Main Street no structure shall be less than 40 feet from the center of the existing right-of-way	None required except: 1. If side yard is provided, it shall be at least 5 feet 2. 20 feet when adjacent to a residential district	None required, except 25 feet when adjacent to a residential district	
C-2	All permitted uses except when special conditions or special permit provisions state otherwise	20 feet for each lot or satellite lot of shopping center, except 150 feet for shopping center (25 acres or more)	2 required for each lot or satellite lot of shopping center, each not less than 10 feet, except: 1. 25 feet when adjacent to a residential district 2. 50 feet for shopping center (25 acres or more)	25 feet for each lot or satellite lot of shopping center, except 60 feet for shopping center (25 acres or more)	3 stories or 35 feet whichever is less

NOTES:
* Bulk requirements for uses permitted by special permit may be modified as City Council deems appropriate in its review of a proposal.

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City of Fond du Lac

Schedule VII
Bulk Requirements*
Commercial-Recreation, Office and Industrial Districts

District	Land Use or Activity	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Yards* (See §§ 720-11 and 720-13)			Maximum Building Height
				Front	Side	Rear	
C-R	All permitted uses except when special conditions or special permit requirements state otherwise	10,000	80	20 feet	5 feet, except 20 feet when adjacent to a residential district	20 feet	3 stories or 40 feet whichever is less
O	All permitted uses except when special conditions or special permit requirements state otherwise	10,000	80	20 feet	10 feet, except 20 feet when adjacent to a residential district	25 feet	
M-1	All permitted uses except when special conditions or special permit requirements state otherwise			30 feet	15 feet, except 30 feet when adjacent to a residential district; none required when adjacent to a railroad right-of-way	25 feet, except none required when adjacent to a railroad right-of-way	
M-BP	All permitted uses except when special conditions or special permit requirements state otherwise	120,000 Exception: 5 acres for lots abutting state or federal highways	250	50 feet; 100 feet for yard abutting state or federal highway	30 feet or 45% of building height, whichever is greater; 100 feet for yard abutting state or federal highway	30 feet or 45% of building height, whichever is greater; 100 feet for yard abutting state or federal highway	

NOTES:

* Bulk requirements for uses permitted by special permit may be modified as the City Council deems appropriate in its review of a proposal.

Site Landscaping

Show proposed landscape treatment including existing features to be retained. Existing natural site topography and mature plantings should be considered in developing a landscape plan. An attractive landscape design shall provide a mix of deciduous and coniferous trees and shrubbery, lawn, groundcover and seasonal plantings, to include foundation plantings, groupings of plantings at the entryways to the property, screening of on-site parking, within front yard setback areas along a public right-of-way, and along interior lot lines to provide a transition and buffer for adjoining properties. The minimum caliper of a tree shall be not less than 2".

Sidewalks

Sidewalk shall be installed along all property boundaries that abut a public street; construction shall comply with City standards. Sidewalk installation shall coincide with site development

Parking

Show arrangement of existing parking spaces and spaces to be added, including existing and proposed driveways. Required setback areas

must be landscaped to screen parked cars from the view of the public right-of-way and neighboring properties.

- **Surface Materials**

  Concrete or asphalt (minimum 3”) surface for all parking and driveway areas is required. Existing gravel driveways and parking areas must be improved to meet City regulations when building and/or property modifications are planned.

- **Parking Stall Size**

  Minimum 9’x18’.

- **Parking Lot Setback - Front Yard**

  Residential Districts: The front yard parking lot setback for a property in a residential district shall correspond to the building setback requirement. Refer to Zoning Code Schedule III for dimensional requirements of each residential zoning district.

  Business, Office or Manufacturing Districts:

C-1 District:	5 feet
C-2 District:	10 feet
O District:	15 feet
M-1 District:	30 feet
M-BP District:	50 feet

- **Parking Lot Setback - Side Yard/Rear Yard**

  Unless specified, a minimum 5’-wide landscape setback is required along side and rear lot lines. A setback is not required along interior lot lines that abut a public alleyway, where a parking lot abuts the building wall of an adjacent property or where the interior of a parking lot abuts a parking lot of an adjacent property, provided that curbing, wheel stops or similar measures are utilized to prevent vehicles from rolling across a lot line.

- **Landscape Islands**

  Landscape islands are required in a parking lot for more than 60 vehicles, at the beginning and end of each row. Any double row for more than 50 cars or a single row for more than 25 cars must be interrupted with a curbed island containing 2 trees (double row) or 1 tree (single row). The minimum caliper of a tree shall be not less than 2". Landscape islands shall be one parking stall in size.

- **Off-Street Loading**

  No berth shall be sited in a front yard, and not less than 25 feet from the nearest point of intersection of any two streets. All off-street loading berths and access shall be located entirely on the property as the use to be served.

- **Driveways**

  Show shared driveways and cross access between properties where such circumstances occur.

  Single Family Condominium Homes - Common Driveway: The common driveway area is the paved private roadway that serves the condominium development. The maximum driveway width between the required front yard setback area and the public right-of-way line is 24 feet; elsewhere on the property the maximum driveway width is 20 feet. The 20' width may be increased where the Fire Department determines a modification is necessary for public safety. Parking is not allowed along common driveways.

  Single Family Condominium Homes - Individual driveway: The individual driveway is the paved area extending from the common driveway to each dwelling unit. The maximum width shall correspond to the garage width for a linear distance of 30 feet, where the driveway shall then taper to a width of 20 feet at the point of intersection with the common driveway.

  Multifamily Residences: The maximum driveway width between the required front yard setback area and the public right-of-way line

is 24 feet; elsewhere on the property the maximum driveway width is 20 feet. The 20' width may be increased where the Fire Department determines a modification is necessary for public safety. Parking is not allowed along common driveways.

Commercial: Maximum 24' at the public right-of-way line. Exceptions to maximum driveway width shall be considered in the instance of shared ingress/egress between adjacent properties and land uses, and for high volume streets and highways.

Manufacturing: Maximum driveway width shall be determined on a case-by-case basis and shall consider circumstances of the individual property and land use.

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City of Fond du Lac

Schedule IX
Minimum Off-Street Parking Requirements

Land Use or Activity	Spaces Required*	Remarks**
1. Animal hospital, kennel, doggie day care: for each employee plus: for each 5 crates, suites or animals	1.00 1.00	
2. Assisted living facility, community living arrangement, convalescent home, nursing home: for each employee plus: for each 4 residents	1.00 1.00	
3. Automotive – service station: for each 200 square feet of gross floor area	1.00	See Note 1
4. Automotive – repair, paint, service, detail, body shop: for each employee plus: for each service bay	1.00 1.00	
5. Automotive – sales, including accessory services: for each 400 square feet of gross floor area	1.00	
6. Bank, financial institution: for each 300 square feet of gross floor area	1.00	
7. Bar, tavern, nightclub, teen club, arcade, adult-oriented establishment: for each 100 square feet of gross floor area	1.00	
8. Bed-and-breakfast inn: for each guest room or suite plus: for owners of dwelling	1.00 2.00	
9. Bowling alley: for each lane plus: for any ancillary uses such as restaurants	3.00 As required	
10. Brew pub: for each 100 square feet of pub or dining area plus: for each 2,000 gross square feet of brewery, bottling, distribution	1.00 1.00	
11. Car wash: for each employee	1.00	See Note 2
12. Church, chapel, place of worship: for each 5 seats of design capacity	1.00	
13. Conference center, meeting hall, private club or lodge, gymnasium, arena, place of assembly: for each 5 seats of design capacity	1.00	
14. Day-care, adult or group: for each employee plus: for each five users (peak shift)	1.00 1.00	
15. Dwelling, 1- and 2-family: for each dwelling unit	2.00	
16. Dwelling, multifamily: for each efficiency and 1-bedroom dwelling unit: for 2+ bedroom dwelling unit: plus: visitor parking, for each 6 units	 1.00 2.00 1.00	
17. Dwelling, rooming house or boardinghouse: for each bedroom, suite or sleeping area	1.00	
18. Fitness center, health spa: for each 100 square feet of usable floor area or for each 5 persons based on design capacity, whichever is greater	1.00	

Land Use or Activity	Spaces Required*	Remarks**
19. Furniture and appliance sales and repair: for each 800 square feet of gross floor area	1.00	
20. Funeral home: for each 100 square feet of gross floor area	1.00	
21. Fraternity, sorority, college dormitory: for each bed	0.50	
22. Greenhouse, landscape facility, contractor facility: for each employee plus: for each 1,000 square feet of gross building or sales area	1.00 1.00	
23. Hospital: for each patient room	1.00	
24. Hotel and motel: for each room or suite plus: for any ancillary use such as restaurant, meeting hall, etc.	 1.00 As required	
25. Library, museum, art gallery, photography studio and similar uses: for each 1,000 square feet of gross floor area	1.00	
26. Manufacturing, fabricating, cleaning, testing, assembling, repair, service, rental facility, printing and publishing, machine shop, welding shop, bottling, distribution, and similar uses: for each 300 square feet of office gross floor area plus: for each 3,000 square feet of non-office gross floor area or for each employee, whichever is greater	1.00 1.00	
27. Medical clinics, therapy and rehabilitation, diagnostic services, laboratories: for each 200 square feet of gross floor area	1.00	
28. Office – business and professional: for each 300 square feet of gross floor area	1.00	
29. Personal services – barbershop, salon (hair/nails/tanning), massage, pet grooming, tattoo/piercing establishment: for each 200 square feet of gross floor area	1.00	
30. Recreation facility (indoor or outdoor), swimming pool, skating rink, tennis court, golf course and similar uses: for each employee plus: for each 4 persons based on design capacity	1.00 1.00	
31. Restaurant: for each 100 square feet of gross floor area	1.00	
32. Restaurant, takeout: for each 200 square feet of gross floor area	1.00	See Note 3
33. Retail businesses and services: for each 200 square feet of gross floor area	1.00	
34. School – college, university, vocational, technical: for each 2 students based on the design capacity of the facility	1.00	See Note 4
35. School – elementary and middle: for each faculty and staff member	1.00	See Note 4
36. School – high: for each 7 students of design capacity	1.00	See Note 4
37. Shopping centers, building supply, home improvement center, commercial establishment containing at least 25,000 gross square feet: for each 250 square feet	1.00	
38. Theater, performing arts center: for each 4 seats of design capacity	1.00	
39. Veterinary clinic: for each 200 square feet of gross floor area	1.00	

Land Use or Activity	Spaces Required*	Remarks**
40. Warehouse, storage, wholesale establishment: for each 300 square feet of office space plus: for each 3,000 square feet of non-office gross floor area or for each employee, whichever is greater	1.00 1.00	
41. All other business and commercial establishments: for each 200 square feet of gross floor area	1.00	

NOTES:

* When the totals indicate that a partial space is required, a full space shall be provided. When standards are listed per employee, the standard refers to maximum employees on the premises at peak shift.

****Remarks for Schedule IX**

1. Requirement based on building size. Parking for a convenience store and other accessory uses shall be provided in designated spaces independent of fuel islands.
2. In addition to the required parking spaces, reservoir standing space to accommodate vehicles waiting for service shall be provided in an amount equal to five times the number of automobiles undergoing some phase of laundering at the same time.
3. A takeout restaurant shall be considered a retail business, provided there is no in-house dining and food items are intended for consumption off premises.
4. When facilities for public assembly are accessory to a school, parking shall be based on the greater requirement of the individual uses.

Property Drainage

Grading plan application requirements and the grading plan application form is available from the City of Fond du Lac Engineering Division. On-line information is available at www.fdl.wi.gov

Site plan details must demonstrate that property drainage is managed on-site and that the drainage pattern will not create a problem for neighboring lands. A suitable drainage plan shall show existing and proposed site grades, existing trees, drainage patterns and significant land features and buildings. Water runoff cannot drain onto or across adjacent land unless there is an established drainage course. In some cases it may be necessary to modify lot grading or construct a connection to the city storm sewer. Required plan details:

- Use USGS datum.
- Provide location and elevation of benchmark used.
- Show all proposed site elevations, at lot corners, along lot lines and at all buildings.
- Use differing symbols to indicate existing and proposed elevations.
- Use arrows to indicate the drainage flow. Show any existing and proposed catchbasins, swales, berms and ridges necessary for proper drainage of the property.
- Minimum slope grass areas: 1.0% (12" per 100')
  Minimum slope asphalt areas: 0.5% (6" per 100')
  Minimum concrete curb/gutter: 0.4% (4.75" per 100')

Storm Water Management

Storm water management is regulated for land development activities if:

The land development activity will result in a residential development requiring a subdivision plat or certified survey map; ***or***

The land development activity will result in a multifamily residential development or planned unit development not requiring a subdivision plat or certified survey map or the land development activity will result in a development other than residential; ***or***

Runoff from the land subject to development activity will, regardless of the size of the parcel, exceed the available capacity of the receiving watercourse or drainage facility or cause undue channel erosion; ***or***

The land development activity will, regardless of the size of the parcel, significantly increase flood stages, significantly increase water pollution, or otherwise adversely affect property or the public health, safety or welfare. An increase in the stage of a 100-year reoccurrence interval flood in a natural watercourse of one-hundredth of a foot (0.01') shall be considered significant.

- **Standards for Storm Water Management and On-Site Detention for Land Development Activities**

  Storm water management facilities shall be constructed to comply with the following standards:

  (a) Storm water management facilities shall limit the calculated peak runoff rate to a rate equal to the calculated peak runoff rate of the property prior to the development activity for the

design storm. Detention facilities shall be provided for storm water runoff in excess of the calculated peak runoff rate of the property prior to the development activity for the design storm. Storm water detention may be provided by the land owner/land user on-site or adjacent to the site.

(b) Peak flows shall not cause surcharging of engineered or constructed drainage facilities.

(c) To the extent practical, storm water management shall prevent any increase in flooding, erosion, sedimentation, pollution or other adverse environmental effects.

- **Design Criteria and Engineering Standards**

City regulations do not require the use of any particular type of structural or nonstructural measure to meet the standards set forth above. The designer may employ any structural or nonstructural measures that will be effective in achieving all applicable standards.

- **Construction Standards**

All work shall comply with applicable sections of the Wisconsin Department of Transportation Standard Specifications for Highway and Bridge Construction, State of Wisconsin Standard Specifications for Sewer and Water Construction, and Wisconsin Construction Site Best Management Practices Handbook.

- **Storm Water Management Plan**

No land user may undertake a land development activity subject to requirements of the subdivision ordinance without preparing a storm water management plan and obtaining approval of the plan from the City Engineer prior to commencing the proposed activity. The application for approval of a storm water management plan shall be made on a form provided by the City Engineer and signed by the person engaging in land development activities and the

owner of the land on which the development activities occur.

The storm water management plan shall contain information to evaluate determinations of runoff rates and volumes and their control. The storm water management plan shall provide the following information:

1. A legal description of the property by meets and bounds, by U.S. Public Land Survey Township and Range, and by U.S. Public Land Survey section and quarter-section; or by block number and lot number within a recorded subdivision or certified survey map.

2. A topographic map of the site, at a scale of not smaller than 1"=100' and with a vertical contour interval of not greater than 1 foot, including enough of the contiguous properties to show existing on-site drainage patterns and watercourses that may affect or be affected by the proposed development of the site. All existing physical features, site boundaries, and the date of topographic survey and survey firm shall be included on the topographic map.

3. Plans and, where appropriate, profiles and cross sections, and hydraulic design computations for all temporary or permanent storm water management measures. The plans shall be prepared at a scale of not smaller than 1"=100' and shall show:

   The name, address and telephone number of the land owner, along with the name and telephone number of the party responsible for maintenance of any storm water management measures if different from the owner.

   The limits of the natural flood plain, if any, on and immediately adjacent to the site, based on the 100-year recurrence storm event under both existing and proposed land use conditions. Peak flood stages referred to national geodetic vertical datum attendant to these flood plains shall be provided.

The estimated volume of runoff from the area under both existing and proposed land use conditions for the 100 year recurrence interval storm event and for the recurrence interval storm event used in the design of receiving engineered and constructed drainage facilities as determined by methods set forth in S.C.S. TR-55 or other methods approved by the City Engineer.

The estimated peak runoff from the area for both existing and proposed land use conditions for the 100 year recurrence interval storm event and for the recurrence interval storm event used in the design of receiving engineered and constructed drainage facilities as determined by methods set forth in S.C.S. TR-55 or other methods approved by the City Engineer. This rate shall be determined for the point of discharge from the site and for such locations on the site and downstream of the site as may be required by the City Engineer.

The location of any and all proposed on-site conveyance and storage facilities.
Proposed provisions to carry runoff to the nearest outlet from the site such as a curbed street, storm sewer, constructed drainage way or natural watercourse.

Design computations and applicable assumptions for all structural measures for storm water management. Volumes, peak rates of discharge and velocities of flow shall be provided for all conveyance and storage measures and outfalls.

Provisions for the maintenance of storm water management facilities.

Estimated starting and completion dates for the construction of storm water management measures.

4. Copies of review letters and permits issued by State and Federal agencies.

5. Prior to the approval of a storm water management plan, the applicant shall furnish, when required by the City, a consent and waiver in a form approved by the City Attorney which shall be recorded in the office of the Register of Deeds. Such consent and waiver shall provide that the owner consents to the installation of storm water management measures at the discretion of the City, consents to the imposition of special assessments or special charges therefor, and waives all notice and hearing requirements for the imposition of such special assessment or special charges.

Review of Storm Water Management Plan. The City Engineer shall review all storm water management plans and determine if measures included in the plan to control runoff are adequate to meet all applicable standards. The City Engineer shall inform the applicant, in writing, whether he approves, conditionally with modifications, or denies the storm water management plan and shall specify a date when the storm water management measures shall be completed or the approval will become null and void. If additional information or modifications are required, the City Engineer shall so notify the applicant.

Compliance Conditions. All approvals shall be subject to the following conditions and requirements and any applicant who performs any land development activity shall be deemed to have accepted all of the following conditions and requirements:

1. All construction and development shall be carried out in compliance with the storm water management plan as approved by the City Engineer.

2. The applicant shall give written notice to the City Engineer at least 2 work days, and not more than 10 work days, before the start of any land development activity.

3. The applicant shall file written notice of the completion of all land development activities and the completion of installation of all on-site detention facilities within 10 work days after completion.

4. Approval in writing must be obtained from the City Engineer prior to any modifications to the approved storm water management plan.

5. The applicant shall be responsible for maintaining all public rights-of-way, streets, runoff and drainage systems, and drainage ways as specified in the approved storm water management plan until they are accepted and become the responsibility of the

governmental entity concerned.

6. The applicant agrees to permit the City Engineer to enter onto the land regulated under this chapter for the purpose of inspecting for compliance with the approved storm water management plan.

7. The applicant must provide and install, at his/her expense, all storm water management improvements, as required by this section and the approved storm water management plan. In the event the City determines it is necessary to construct storm water management facilities within a development to serve other land, or to construct storm water management facilities outside a development to serve the development, the City shall construct such storm water management facilities and the applicant shall share the cost thereof. The applicant's share of the cost shall be determined by the City Council after considering the area of the development served by the facilities, the total area served by the facilities, anticipated runoff from the areas served by the facilities, and such other factors as the Council considers relevant.

CITY OF FOND DU LAC

CONSTRUCTION SITE EROSION CONTROL ORDINANCE

ORDINANCE NO. 3381

AN ORDINANCE CREATING CHAPTER 23 OF THE CODE OF ORDINANCES OF THE CITY OF FOND DU LAC, WISCONSIN, RELATING TO CONSTRUCTION SITE EROSION CONTROL AND POST CONSTRUCTION STORM WATER MANAGEMENT

The City Council of the City of Fond du Lac do ordain as follows:

Section 1. That Chapter 23, CONSTRUCTION SITE EROSION CONTROL AND POST CONSTRUCTION STORM WATER MANAGEMENT CODE, is hereby created and added to the Code of Ordinances of the City of Fond du Lac, Wisconsin, to read as follows:

23.01 AUTHORITY.

(1) This ordinance is adopted under the authority granted by s. 62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 62.234 Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The City Council hereby designates the City Engineer to administer and enforce the provisions of this ordinance.

(4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

23.02 FINDINGS OF FACT.

The City Council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the City of Fond du Lac.

23.03 PURPOSE.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the City of Fond du Lac.

23.04 APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY.

(a) This ordinance applies to the following land disturbing construction activities except as provided under sub. (b):

1. A construction site, which has 4,000 square feet or greater of land disturbing construction activity.

2. A construction site, which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.

3. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with s. NR 103.08(1m).

(b) This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Commerce under s. COMM 21.125 Wis. Adm. Code.

2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.

3. Nonpoint discharges from agricultural activity areas.

4. Nonpoint discharges from silviculture activities.

5. Mill and crush operations.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the City Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) JURISDICTION.

This ordinance applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the City of Fond du Lac.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s.

227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

23.05 DEFINITIONS.

(1) "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the City Council to administer this ordinance.

(2) "Agricultural activity area" means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

(3) "Agricultural production area" means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

(4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

(5) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(6) "Business day" means a day the office of the City Engineer is routinely and customarily open for business.

(7) "Cease and desist order" means a court-issued

order to halt land disturbing construction activity that is being conducted without the required permit.

(8) "Common plan of development or sale" means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

(9) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.

(10) "Development" means residential, commercial, industrial, institutional, or other land uses and associated roads.

(11) "Division of land" means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.

(12) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(13) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

(14) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

(15) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

(16) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

(17) "Land disturbing construction activity" (or "disturbance") means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

(18) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(19) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(20) "Permit" means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(21) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.

(22) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.

(23) "Protective area" has the meaning given in 23.207(3)(d) of the City of Fond du Lac Post-Construction Storm Water Management Ordinance.

(24) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(25) “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(26) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(27) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not draining to a storm water treatment device or system.

(d) Discharges directly or indirectly to waters of the state.

(28) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

(29) “Stop work order” means an order issued by the City Engineer which requires that all construction activity on the site be stopped.

(30) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(31) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

23.06 <u>TECHNICAL STANDARDS</u>.

(1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

(a) Design guidance and technical standards identified or developed by the Wisconsin

Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(b) Technical standards and other guidance identified within the City of Fond du Lac Stormwater Reference Guide.

(c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the City Engineer.

23.07 <u>PERFORMANCE STANDARDS</u>.

(1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with 23.09 that incorporates the requirements of this section.

(2) PLAN. A written erosion and sediment control plan shall be developed in accordance with 23.09 and implemented for each construction site.

(3) REQUIREMENTS. The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:

(a) BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows.

1. For construction sites with 1 acre or greater of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion

and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

2. For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load using BMPs from the City of Fond du Lac Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.

2. Prevent the discharge of sediment as part of site de-watering.

3. Protect the separate storm drain inlet structure from receiving sediment.

(d) The use, storage and disposal of building materials, chemicals, cement, concrete truck washout, litter, sanitary waste, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings

or BMP installations, are not prohibited by this paragraph.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(5) ALTERNATE REQUIREMENTS. The City Engineer may establish requirements more stringent than those set forth in this section if the City Engineer determines that an added level of protection is needed for sensitive resources.

23.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(1) PERMIT REQUIRED. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the City Engineer.

(2) PERMIT APPLICATION AND FEES. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 23.09 and shall pay an application fee to the City Engineer. By submitting an application, the applicant is authorizing the City Engineer to enter the site to obtain information required for the review of the erosion and sediment control plan.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The City Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the City Engineer shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

(b) If the permit application and plan are approved, the City Engineer shall issue the permit.

(c) If the permit application or plan is disapproved, the City Engineer shall state in writing the reasons for disapproval.

(d) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the City Engineer to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) SURETY BOND. As a condition of approval and issuance of the permit, the City Engineer may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:

(a) Notify the City Engineer after the completion of any BMPs and prior to commencing any land disturbing construction activity.

(b) Obtain permission in writing from the City Engineer prior to any modification pursuant to 23.09(3) of the erosion and sediment control plan.

(c) Install all BMPs as identified in the approved erosion and sediment control plan.

(d) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(e) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.

(f) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.

(g) Allow the City Engineer to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.

(h) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the City Engineer in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 23.07.

(7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The City Engineer may extend the period one or more times for up to an additional 180 days. The City Engineer may

require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

(9) ALTERNATE REQUIREMENTS. The City Engineer may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

23.09 <u>EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS</u>.

(1) PLAN REQUIREMENTS. The erosion and sediment control plan required under 23.07 (2) shall comply with the City of Fond du Lac Stormwater Reference Guide and contain at a minimum the following information:

(a) Name, address, and telephone number of the landowner and responsible parties.

(b) A legal description of the property proposed to be developed.

(c) A site map with property lines, disturbed limits, and drainage patterns.

(d) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.

(e) Performance standards applicable to site.

(f) Proposed best management practices.

(2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under 23.04 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City Engineer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(3) AMENDMENTS. The applicant shall amend the plan if any of the following occur:

(a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The City Engineer notifies the applicant of changes needed in the plan.

(4) ALTERNATE REQUIREMENTS. The City Engineer may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

23.10 FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the City Engineer and may from time to time be modified by resolution. A schedule of the fees established by the City Engineer shall be available for review in the offices of the City Engineer and the City Clerk.

23.11 INSPECTION.

If land disturbing construction activities are being carried out without a permit required by this ordinance, the City Engineer may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

23.12 ENFORCEMENT.

(1) The City Engineer may post a stop-work order if any of the following occurs:

(a) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.

(b) The erosion and sediment control plan is not being implemented in a good faith manner.

(c) The conditions of the permit are not being met.

(2) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the City Engineer may revoke the permit.

(3) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the City Engineer, or if a responsible party violates a stop-work order posted under sub. (1), the City Engineer may request the city attorney to obtain a cease and desist order in any court with jurisdiction.

(4) The City Engineer or the board of appeals may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2).

(5) After posting a stop-work order under sub. (1), the City Engineer may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The City Engineer may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the City Engineer, plus interest at the rate authorized by City Engineer shall be billed to the responsible party or recovered from the surety bond, cash escrow, or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctional proceedings.

23.13 <u>APPEALS</u>.

(1) APPEALS. The City Manager:

(a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance except for cease and desist orders obtained under 23.12 (3).

(b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

(c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(2) WHO MAY APPEAL. Appeals to the City Manager may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Fond du Lac affected by any decision of the City Engineer.

23.14 SEVERABILITY.

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

POST-CONSTRUCTION STORM WATER MANAGEMENT

23.201 AUTHORITY.

(1) This ordinance is adopted by the City Council under the authority granted by s. 62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 62.234, Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The City Council hereby designates the City Engineer to administer and enforce the provisions of this ordinance.

(4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

23.202 <u>FINDINGS OF FACT</u>.

The City Council finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(4) Reduce the quality of groundwater by increasing pollutant loading.

(5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

23.203 PURPOSE AND INTENT.

(1) PURPOSE. The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(a) Further the maintenance of safe and healthful conditions.

(b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(2) INTENT. It is the intent of the City Council that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The City Council recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance

standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the City Council, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

23.204 <u>APPLICABILITY AND JURISDICTION</u>.

(1) APPLICABILITY.

(a) Where not otherwise limited by law, this ordinance applies to all post-construction sites, unless the site is otherwise exempt under paragraph (b).

(b) A post-construction site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.

1. 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance.

2. Non-point discharges from agricultural activity areas.

3. Non-point discharges from silviculture activities.

4. Mill and crush operations.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the City Engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) JURISDICTION.

This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of Fond du Lac.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

23.205 DEFINITIONS.

(1) "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the City Council to administer this ordinance.

(2) "Agricultural activity area" means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

(3) "Agricultural production area" means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

(4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

(5) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

(6) “Business day” means a day the office of the City Engineer is routinely and customarily open for business.

(7) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

(8) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.

(9) “Common plan of development or sale” means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

(10) “Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(11) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

(12) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for City of Fond du Lac are: 1-year, 2.3 inches; 2-year, 2.5 inches; 5-year, 3.4 inches; 10-year, 3.9 inches; 25-year, 4.4 inches; 50-year, 5.0 inches; and 100-year, 5.5 inches.

(13) “Development” means residential, commercial, industrial, institutional, or other land uses and associated roads.

(14) “Division of land” means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.

(15) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(16) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.

(17) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.

(18) “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

(19) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

(20) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

(21) “Governing body” means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

(22) “Highway” has the meaning given in s. 340.01 (22), Wis. Stats.

(23) “Highway reconditioning” has the meaning given in s. 84.013 (1)(b), Wis. Stats.

(24) “Highway reconstruction” has the meaning given in s. 84.013(1)(c), Wis. Stats.

(25) “Highway resurfacing” has the meaning given in s. 84.013(1)(d), Wis. Stats.

(26) “Impervious surface” means an area that releases as runoff all or a large portion of the

precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.

(27) "In-fill area" means a new development area less than 5 acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur..

(28) "Infiltration" means the entry of precipitation or runoff into or through the soil.

(29) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(30) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(31) "Land disturbing construction activity" (or "disturbance") means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

(32) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management and best management practices.

(33) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(34) “Minor reconstruction of a highway” means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

(35) “New development” means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

(36) “Off-site” means located outside the property boundary described in the permit application.

(37) “On-site” means located within the property boundary described in the permit application.

(38) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

(39) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.

(40) “Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.

(41) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(42) “Permit” means a written authorization made by the City Engineer to the applicant to conduct land

disturbing construction activity or to discharge post-construction runoff to waters of the state.

(43) “Permit administration fee” means a sum of money paid to the City Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(44) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(45) “Pollutant” has the meaning given in s. 283.01(13), Wis. Stats.

(46) “Pollution” has the meaning given in s. 281.01(10), Wis. Stats.

(47) “Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.

(48) “Post-development” means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

(49) “Pre-development” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(50) “Preventive action limit” has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

(51) "Redevelopment” means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

(52) "Responsible party" means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

(53) "Routine maintenance" means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

(54) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(55) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not draining to a storm water treatment device or system.

(d) Discharges directly or indirectly to waters of the state.

(56) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

(57) “Stop work order” means an order issued by the City Engineer which requires that all construction activity on the site be stopped.

(58) “Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has under gone final stabilization following completion of the construction activity.

(59) “Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(60) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(61) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

(62) “TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(63) “Transportation facility” means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Stats.

(64) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

(65) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

23.206 TECHNICAL STANDARDS.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of storm water practices needed to meet the water quality standards of this ordinance:

(1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(2) Technical standards and guidance identified within the City of Fond du Lac Stormwater Reference Guide.

(3) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City Engineer.

(4) In this ordinance, the following year and location has been selected as average annual rainfall(s): Green Bay, 1969 (Mar. 29-Nov. 25).

23.207 PERFORMANCE STANDARDS.

(1) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.

(2) PLAN. A written storm water management plan in accordance with 23.209 shall be developed and implemented for each post-construction site.

(3) REQUIREMENTS. The storm water management plan shall meet the following minimum requirements to the maximum extent practicable:

(a) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.

1. For post-construction sites with 20,000 square feet or more of impervious

surface disturbance or post-construction sites with 1 acre or more of land disturbance, the following is required:

a. Reduce the total suspended solids load by 80% for new development.

b. Reduce the total suspended solids load by 40% for redevelopment.

c. No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.

2. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids load using BMPs from the City of Fond du Lac Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

3. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 23.207(3)(a)1.a, b, and c.

4. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

5. Notwithstanding subds. 1. to 4., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(b) PEAK DISCHARGE. BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:

1. For post-construction sites with 20,000 square feet or more of impervious surface disturbance or post-construction sites with 1 acre or more of land disturbance, the following is required:

   a. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 2-year, 5-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.

   b. TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following "meadow" runoff curve numbers:

Maximum Pre-Development Runoff Curve Numbers - Meadow				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	30	58	71	78

2. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the City of Fond du Lac Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

3. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 23.207(3)(b)1.a and b.

4. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

5. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.

6. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this paragraph (b) provided the transportation facility is not part of a larger common plan of development or sale:

   a. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

   b. A highway reconstruction site.

   c. A transportation facility that is part of a redevelopment project.

(c) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subds. 8. through 11.

1. For residential developments with 20,000 square feet or more of impervious surface disturbance or residential developments with 1 acre or more of land disturbance, one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

b. Infiltrate 25% of the post-development runoff from the 2 year -24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

2. For non-residential developments with 20,000 square feet or more of impervious surface disturbance or non-residential developments with 1 acre or more of land disturbance, including commercial, industrial and institutional development, one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

b. Infiltrate 10% of the runoff from the 2 year - 24 hour design storm with a type II distribution. Separate curve numbers for pervious

and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

3. Pre-development condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve Numbers - Cropland				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

4. For residential and non-residential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the City of Fond du Lac Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

5. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 23.207(3)(c)1, 2, and 3.

6. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.

7. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 11. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. Exclusions. Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this paragraph (c):

   a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

   b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.

   c. Fueling and vehicle maintenance areas.

   d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

   e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 8.e. does not prohibit infiltration of roof runoff.

   f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with

less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

g. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

h. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.

i. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 8.i. does not prohibit infiltration of roof runoff.

9. Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this paragraph (c):

a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.

b. Parking areas and access roads less than 5,000 square feet for

commercial and industrial development.

c. Redevelopment and routine maintenance areas.

d. In-fill areas less than 5 acres.

e. Infiltration areas during periods when the soil on the site is frozen.

f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

g. Highways provided the transportation facility is not part of a larger common plan of development or sale.

10. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.

11.a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(d) PROTECTIVE AREAS.

1. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

   a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

   b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

   c. For lakes, 50 feet.

   d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.

   e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by

invasive species such as reed canary grass.

f. In subd. 1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

2. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph (d) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

3. This paragraph (d) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 6 below.

4. The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of

70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

c. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

5. A protective area established or created after the adoption date of this ordinance shall not be eliminated or reduced, except as allowed in subd. 6.b, c, or d below.

6. Exemptions. The following areas are not required to meet the protective area requirements of this paragraph (d):

a. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. 5 above are satisfied.

b. Structures that cross or access surface waters such as boat landings, bridges and culverts.

c. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.

d. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

(e) FUELING AND VEHICLE MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

(f) SWALE TREATMENT FOR TRANSPORTATION FACILITIES. This 23.207(3)(f) is not applicable to transportation facilities that are part of a larger common plan of development or sale.

1. Applicability. Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

b. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

2. Exemptions. The City Engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial

surface water of the state that the runoff directly enters is any of the following:

a. An outstanding resource water.

b. An exceptional resource water.

c. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.

d. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(g) EXEMPTIONS. The following areas are not required to meet the performance standards within 23.207(3):

1. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.

2. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

3. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.

a. Reconditioning or resurfacing of a highway.

b. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.

c. A redevelopment transportation facility with no increase in exposed parking lots or roads.

d. A transportation facility with less than 10% connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.

e. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(4) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:

(a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(5) LOCATION AND REGIONAL TREATMENT OPTION.

(a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.

(b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.

(c) Except as allowed under par. (d), post-construction runoff from new development

shall meet the post-construction performance standards prior to entering a navigable surface water.

(d) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:

1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and

2. The BMP is designed to provide runoff treatment from future upland development.

(e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.

1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

(f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

(g) The City Engineer may approve off-site management measures provided that all of the following conditions are met:

1. The City Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Fond du Lac and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

a. The facility is in place.

b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(h) Where a regional treatment option exists such that the City Engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City Engineer. In determining the fee for post-construction runoff, the City Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) ALTERNATE REQUIREMENTS. The City Engineer may establish storm water management requirements more stringent than those set forth in this section if the City Engineer determines that an added level of protection is needed to protect sensitive resources. Also, the City Engineer may establish storm water management requirements less stringent than those set forth in this section if the City Engineer determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

23.208 <u>PERMITTING REQUIREMENTS, PROCEDURES AND FEES</u>.

(1) PERMIT REQUIRED. No responsible party may undertake a land disturbing construction activity

without receiving a post-construction runoff permit from the City Engineer prior to commencing the proposed activity.

(2) PERMIT APPLICATION AND FEES. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City Engineer for that purpose.

(a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.

(b) The storm water management plan shall be prepared to meet the requirements of 23.207 and 23.209, the maintenance agreement shall be prepared to meet the requirements of 23.210, the financial guarantee shall meet the requirements of 23.211, and fees shall be those established by the City Council as set forth in 23.212.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The City Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 20 business days of the receipt of a complete permit application, including all items as required by sub. (2), the City Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City Engineer shall issue the permit.

(c) If the storm water permit application, plan or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.

(d) The City Engineer may request additional information from the applicant. If

additional information is submitted, the City Engineer shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(e) Failure by the City Engineer to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City Engineer to suspend or revoke this permit may be appealed in accordance with 23.214.

(a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.

(c) The responsible party shall notify the City Engineer within 10 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the City Engineer so that practice installations can be inspected during construction.

(d) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the City

Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(e) The responsible party shall notify the City Engineer of any significant modifications it intends to make to an approved storm water management plan. The City Engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the City Council, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(g) The responsible party authorizes the City Engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 23.211.

(h) If so directed by the City Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(i) The responsible party shall permit property access to the City Engineer or its designee for the purpose of inspecting the property

for compliance with the approved storm water management plan and this permit.

(j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(k) The responsible party is subject to the enforcement actions and penalties detailed in 23.213, if the responsible party fails to comply with the terms of this permit.

(l) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(5) PERMIT CONDITIONS. Permits issued under this subsection may include conditions established by City Engineer in addition to the requirements needed to meet the performance standards in 23.207 or a financial guarantee as provided for in 23.211.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the City Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

(7) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 23.207 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

23.209 <u>STORM WATER MANAGEMENT PLAN</u>.

(1) PLAN REQUIREMENTS. The storm water management plan required under 23.208 (2) shall comply with the City of Fond du Lac Stormwater Reference Guide and contain at a minimum the following information:

(a) Name, address, and telephone number of the landowner and responsible parties.

(b) A legal description of the property proposed to be developed.

(c) Pre-development site map with property lines, disturbed limits, and drainage patterns.

(d) Post-development site map with property lines, disturbed limits, and drainage patterns.

1. Total area of disturbed impervious surfaces within the site.

2. Total area of new impervious surfaces within the site.

3. Performance standards applicable to site.

4. Proposed best management practices.

5. Groundwater, bedrock, and soil limitations.

6. Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water.

(2) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 23.207 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

23.210 <u>MAINTENANCE AGREEMENT</u>.

(1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under 23.208 (2) for storm water management practices shall be an agreement between the City Engineer and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all

subsequent owners of the land served by the storm water management practices.

(2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required in the City of Fond du Lac Stormwater Reference Guide by 23.209(1)(f):

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 23.208 (2).

(c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under 23.208 (2).

(d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).

(e) Authorization for the City Engineer to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(f) A requirement on the City Engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

(g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the City Engineer of maintenance problems which

require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City Engineer.

(h) Authorization of the City Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The City Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(3) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 23.207 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

23.211 <u>FINANCIAL GUARANTEE</u>.

(1) ESTABLISHMENT OF THE GUARANTEE. The City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City Engineer. The financial guarantee shall be in an amount determined by the City Engineer to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City Engineer the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the City Engineer that the requirements of this ordinance have not been met.

(2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

(a) The City Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the

City Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The City Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(b) The City Engineer shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the City Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(3) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 23.207 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

23.212 FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the City Engineer and may from time to time be modified by resolution. A schedule of the fees established by the City Engineer shall be available for review in the offices of the City Engineer and City Clerk.

23.213 ENFORCEMENT.

(1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(2) The City Engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

(3) Upon receipt of written notification from the City Engineer under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City Engineer in the notice.

(4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City Engineer plus interest and legal costs shall be billed to the responsible party.

(5) The City Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.

(6) The City Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City Engineer or by a court with jurisdiction.

(8) The City Engineer is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the municipal attorney for the commencement of further legal proceedings in any court with jurisdiction.

(9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture and the costs of prosecution for each violation. Each day that the violation exists shall constitute a separate offense.

(10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to

prosecute for forfeiture or a cease and desist order before resorting to injunctional proceedings.

(11) When the City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to 23.211 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

23.214 APPEALS.

(1) APPEALS. The City Manager shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance. The City Manager shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(2) WHO MAY APPEAL. Appeals to the City Manager may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Fond du Lac affected by any decision of the City Engineer.

23.215 SEVERABILITY.

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the

ordinance shall remain in force and not be affected by such judgment.

Section 2. Any person violating the provisions of this ordinance shall be subject to the penalty provided by the penalty section of the CONSTRUCTION SITE EROSION CONTROL AND POST CONSTRUCTION STORM WATER MANAGEMENT CODE and to the penalties provided by Section 25.04 of the Code.

Section 3. The appropriate City officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this ordinance.

Section 4. This ordinance shall take effect and be in force upon its passage and publication as provided by law.

ADOPTED:

_____

Tim Lakin, President
Fond du Lac City Council

Attest:

Sue L. Strands, City Clerk

City Attorney:

Reviewed _____